

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED
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Matthew Thach
CLERK

FRANKLIN SANDOVAL NELSON,

Plaintiff,

vs.

JIM CROYMANS, *et al.*

Defendants.

1:21-CV-01007-CBK

ORDER

Plaintiff instituted this action against ten defendants alleging that his statutory and constitutional rights were violated in conjunction with his now overturned 2014 state court rape conviction. Plaintiff's claims against nine of the defendants were dismissed by separate orders. The tenth defendant, Robin Weinkauff, has not appeared. Plaintiff has failed to file proof of service upon defendant Weinkauff.

Plaintiff was authorized to proceed without the prepayment of fees pursuant to 28 U.S.C. § 1915. The United States Marshals Service was ordered to serve the defendant as directed by plaintiff. The plaintiff provided service papers indicating that defendant's address was in Camden, Tennessee. A defendant who resides in Tennessee is not subject to service of process in the District of South Dakota. Fed. R. Civ. P. 4(k).

Plaintiff's only claim against defendant Weinkauff is that she committed slander against plaintiff when she claimed plaintiff raped her. That claim does not arise under the constitution or statutes of the United States. Pursuant to 28 U.S.C. § 1367(c)(3), the district court may decline to exercise supplemental jurisdiction over a state law claim if the district court has dismissed all federal claims. In determining whether to exercise pendent jurisdiction over state court claims when all the federal claims have been dismissed, this court considers the "values of judicial economy, convenience, fairness, and comity." Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350, 108 S. Ct. 614, 619,


98 L. Ed. 2d 720 (1988). In this case, the “balance of these factors indicates that a case properly belongs in state court.” *Id.* I decline to exercise supplemental jurisdiction over plaintiff’s claim against defendant Weinkauff.

Now, therefore,

IT IS ORDERED that plaintiff’s claims against defendant Weinkauff are dismissed without prejudice.

DATED this 16th day of November, 2021.

BY THE COURT:


CHARLES B. KORNMANN
United States District Judge